

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
RENEE SIMMS,)	
)	
Complainant,)	
)	Charge Nos.: 2006CF0916
)	2006CN0917
and)	EEOC No.: N/A
)	ALS No.: 06-415C
)	
CAPITAL FITNESS and PEDRO CRUZ,)	
)	
Respondents.)	Judge Lester G. Bovia, Jr.

RECOMMENDED ORDER AND DECISION

This matter has come to be heard on Respondents' Motion to Dismiss for Want of Prosecution ("Motion"). Complainant was duly served with the Motion and given an opportunity to respond, but failed to do so.

The Illinois Department of Human Rights ("Department") is an additional statutory agency that has issued state actions in this matter. Therefore, the Department is an additional party of record. Moreover, the Department was duly served with the Motion and given an opportunity to be heard. Accordingly, this matter is now ready for disposition.

FINDINGS OF FACT

The following facts were derived from the record file in this matter:

1. Complainant filed charges with the Department on October 19, 2005 and September 1, 2006 alleging that Respondent Pedro Cruz sexually harassed her. Respondents deny Complainant's allegations.
2. The Department filed a complaint with the Commission on Complainant's behalf on November 14, 2006.

3. At a June 6, 2007 status hearing, Complainant's then-counsel was given leave to withdraw based on counsel's representation that Complainant had been uncooperative in the prosecution of this matter. Specifically, counsel represented that Complainant had failed to communicate with counsel for several months or return any of the approximately 15 messages that counsel had left for her.

4. Administrative Law Judge Lindt scheduled the next status hearing for August 8, 2007 and required Complainant to attend. Judge Lindt warned that Complainant risked dismissal of her case if she did not attend the next status hearing.

5. Neither Complainant nor an attorney on her behalf appeared at the August 8, 2007 status hearing. Accordingly, Judge Lindt granted Respondents leave to file this Motion. Although Complainant was duly served with the Motion, she never filed a response.

CONCLUSIONS OF LAW

1. Complainant's failure to prosecute her case has unreasonably delayed the proceedings in this matter.

2. As a result of Complainant's failure to prosecute her case, this Motion should be granted.

DISCUSSION

Complainant has failed to assist her counsel in the prosecution of this matter. Complainant also has ignored Judge Lindt's warning that her failure to appear at a scheduled status hearing could result in the dismissal of her case. Furthermore, Complainant has not responded to this Motion or provided any justification whatsoever regarding her failure to prosecute her case. It appears that Complainant simply has abandoned her claim.

The Commission routinely dismisses abandoned claims. See, e.g., Diaz and Sun Steel, IHRC, ALS No. 07-688, March 17, 2009 and Leonard and Solid Matter, Inc., IHRC, ALS No. 4942, August 25, 1992. The Commission also has dismissed cases where complainants have failed to appear at dates scheduled for hearing or status, as complainants' failure to appear

unreasonably delays proceedings before the Commission. See, e.g., Stewart and SBC Midwest, IHRC, ALS No. 04-227, March 22, 2006 and Jackson and Chicago Firefighters Union Local No. 2, IHRC, ALS No. 8193, September 29, 1997.

Complainant's failure to prosecute her case has unreasonably delayed the proceedings in this matter. Therefore, this case should be dismissed.

RECOMMENDATION

Based on the foregoing, it is recommended that Respondents' Motion to Dismiss for Want of Prosecution be granted, and the complaints and underlying charges against both Respondents be dismissed in their entirety with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____

**LESTER G. BOVIA, JR.
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION**

ENTERED: January 4, 2010